IN THE SUPREME COURT OF
THE UNITED STATES

JOHN B. THOMPSON,

Petitioner,

v.

THE FLORIDA BAR,

Respondent.

**Petition for Writ of Certiorari to
The Florida Supreme Court**

Petition for Writ of Certiorari

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Questions Presented for Review

The Florida Supreme Court has entered an order permanently disbarring petitioner from the practice of law, with no opportunity ever to apply for readmission, after petitioner was a member in good standing with The Florida Bar for thirty-one consecutive years.

This disbarment results not from any unethical conduct by petitioner, as such misconduct was never proven for the simple reason that it did not occur. Rather, the bar complaints were SLAPP actions (strategic litigation against public participation) by the lawyers for the pornographic *Howard Stern Show* and lawyers for Take-Two Interactive Software, Inc., the makers of the pornographic and hyper-violent *Grand Theft Auto* video games. Petitioner had secured FCC decency fines against the former and United States Federal Trade Commission findings and fines against the latter.

The Florida Bar allowed itself to be ensnared in this "shoot the messenger" assault upon petitioner because of a long-standing regulatory vendetta it had pursued against petitioner since 1987, which had resulted in the payment of damages by The Florida Bar to petitioner previously.

This latest installment of The Florida Bar's collaboration with the American entertainment industry resulted in petitioner's disbarment because The Florida Bar prohibited petitioner from introducing any evidence and offering any witnesses at his nine-day bar show trial. The Florida Supreme Court entered an order

denying petitioner his right even to petition that court for review of the Referee's Report, with the result that the entire disciplinary effort against petitioner was, using the Florida Supreme Court's word, "uncontested."

Accordingly, presented for review in this petition are three questions:

WHETHER a state bar can deny a lawyer in a disciplinary proceeding his right to defend and represent himself therein.

WHETHER The Florida Bar has violated this court's unanimous ruling in *Keller v. State Bar of California,* 496 U.S. 1 (1990) that an integrated state bar must not use its regulation and oversight of the practice of law for ideological, political purposes in contravention of the First Amendment to the United States Constitution.

WHETHER The Florida Bar can deny, in light of the guarantees of the Fifth, and Fourteenth Amendments, substantive due process to lawyers whom it seeks to discipline for whatever reason.

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Petition for Writ of Certiorari To The Florida Supreme Court

Petitioner, John B. Thompson, prays that a writ of certiorari issue to review: (i) the March 20, 2008, Order of the Florida Supreme Court stripping petitioner of his right to represent himself before the court in his disciplinary matter, (ii) the September 25, 2008, Order of the Florida Supreme Court permanently disbarring petitioner, and (iii) the January 30, 2009 Order of the Florida Supreme Court commanding petitioner to pay $42,525.27 in "costs.

Review is mandated as the Florida Supreme Court (i) ordered petitioner not to file any pleading on his own behalf, including a Petition for Review of The Florida Bar Referee's Report, thereby turning the discipline into an "uncontested" proceeding, (ii) has used bar "discipline" as a means of imposing ideological conformity upon its membership, in violation of this court's ruling in *Keller v. State Bar of California,* and (iii) has achieved these improper ends by improper means, by clearly violating the Fifth and Fourteenth Amendments to the United States Constitution, thereby denying petitioner substantive due process.

Opinions Below

The March 20, 2008, Order of the Florida Supreme Court stripping petitioner of his right to represent himself before the court in this disciplinary matter, *Appendix-2.*

The September 25, 2008, Order of the Florida

Supreme Court permanently disbarring petitioner is reprinted in the appendix hereto, *Appendix-3*

The January 30, 2009 Order of the Florida Supreme Court commanding petitioner to pay $42,525.27 in "costs," and Final Affidavit of Costs attached thereto, is reprinted in the appendix hereto, *Appendix-8.*

Jurisdiction

The jurisdiction of this Court is invoked under Article III and the Ninth Amendment to the United States Constitution and 28 USC 1257 (a).

Constitutional Provisions, Treaties, Statutes, Ordinances, and Regulations Involved

Federal Constitution, First Amendment

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Federal Constitution, Fifth Amendment

"No person shall ... be deprived of life, liberty, or property, without due process of law ... ."

Federal Constitution, Sixth Amendment

"In all criminal prosecutions, the accused shall enjoy the right ... to be informed of the nature and cause of the accusation...and to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

Federal Constitution, Fourteenth Amendment, Section 1

"...No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Statement of the Case

In 1989, petitioner John B. Thompson, who was a lawyer but acting solely as a citizen and on behalf of no client, secured as the formal complainant the first decency fines ever levied by the Federal Communications Commission for multiple violations of 18 USC 1464. This began what has been petitioner's twenty-year, faith-based social activism against the marketing, distribution, and sale of adult entertainment to minors. During these twenty years, the entertainment industry and its lawyers have attempted to disbar him and thus "shoot the messenger," rather than defend their indefensible commercial practices.

In his social activism against the marketing of

adult entertainment to minors, petitioner has appeared on more than 200 national and international television programs, spoken to more than 250 college audiences, written a book about his experiences, published by Tyndale House entitled *Out of Harm's Way*, and drafted and secured passage of state laws seeking to stanch the flow of adult-rated entertainment products, most notably "Mature-rated" violent and pornographic video games to kids under 17 years of age.

In 1992, the lawyers for the aforementioned shock radio station and the former chairman of the Florida American Civil Liberties Union persuaded the Florida Supreme Court to enter, *ex parte*, and order commanding petitioner to submit to a battery of psychiatric and psychological tests, including testing to diagnose "brain damage" on the following grounds: "Jack Thompson's obsession against pornography renders him mentally disabled thereby and thus unfit and unable to practice law."

With front-page stories in major media in South Florida asking the question in headlines "Is This Man Too Crazy to Practice Law?" petitioner was examined by The Florida Bar's mental health experts by virtue of the Florida Supreme Court's *ex parte* order.

After the administration of exhaustive and embarrassing objective psychiatric and psychological tests, The Florida Bar's hand-picked experts concluded, "Jack Thompson is perfectly sane. He is simply a Christian living out, rationally, his activist faith."

The Florida Bar's insurance carrier then paid

money damages to petitioner for The Florida Bar's and Supreme Court's application of the methods of the Soviet gulag. This appears to be the only payment of damages to any lawyer in the history of the United States for the wrongful acts of a state bar.

Then in June 2003 an incident occurred that exposed the reckless and fraudulent marketing practices of the video game industry to great peril and led to the decision by a video game company to seek petitioner's disbarment

In June 2003, Alabama teenager Devin Moore, with no criminal record and no history of violence, was arrested by Fayette, Alabama, police officers, asleep in a stolen vehicle. Moore was taken to the Fayette Police station, and during the booking he grabbed the gun of a police officer and shot his way out of the police station, fleeing in a police vehicle, in which he was arrested crossing the Alabama-Mississippi border.

Moore killed two police officers and a dispatcher in the police station, thereby turning a minor first offense into capital murder. When arrested, Moore told police, "Life is like a video game. You have to die sometime."

Thompson was contacted by and retained by the families of the three slain men in order to bring a wrongful death action against the makers and distributors of the *Grand Theft Auto* cop-killing simulation games. Moore, while a minor, had been sold the cop-killing games by two major video game retailers, GameStop and Wal-Mart and with no parent in sight.

Thompson was admitted *pro hac vice* to bring the action. On March 5, 2005, Thompson appeared for the second time on *60 Minutes* to warn the nation of the public safety hazard posed by "Mature-rated" murder simulators "games" being sold to and played by minors. Thompson's first appearance on *60 Minutes* was in April, 1999, the Sunday after "Columbine," as Thompson had predicted that school massacre a week before it occurred on NBC's *Today* show, even predicting what violent video game and what school shooting movie would consume and train students Klebold and Harris to kill.

Ed Bradley, dying of leukemia, came to Alabama to interview Thompson and the bereaved police families, so convinced had been Mr. Bradley by the story he did with Thompson six years earlier that this adult product in the hands of kids posed a public safety hazard. Bradley showed in the *60 Minutes* story that Devin Moore replicated the unique police station killing sequence in the *Grand Theft Auto: Vice City* game precisely. Moore was able to perform this Houdini-like escape the first time he tried it because he had in fact practiced it hundreds of times in virtual reality.

A *Reader's Digest* original article featuring the Alabama case followed shortly thereafter. Then in July 2005 Thompson, a lifelong Republican, prepared U.S. Senator Hillary Clinton, an advocate against the sale of adult entertainment to children, for her news conference in which she boldly asserted that Take-Two Interactive Software, Inc., the makers of the *Grand Theft Auto* games, had illegally embedded oral and anal sex scenes in their games and knowing this pornographic material

was in the game nevertheless sold it willy-nilly to adults and minors alike. But for petitioner, that news conference never would have occurred.

Senator Clinton's sensational claim proved to be absolutely correct. Take-Two had lied that the pornographic material was not in the game and that if it was Take-Two had not put it there. Millions of units of the *Grand Theft Auto* games were recalled across the globe, Take-Two was fined by the U.S. Federal Trade Commission for its fraud, and Take-Two as a result lost hundreds of millions of dollars, thanks in part to petitioner.

At this same time, in the late summer of 2005, petitioner's Tyndale House book, *Out of Harm's Way*, was published. It is in part an expose of The Florida Bar's past unsuccessful use of "discipline" in collaboration with entertainment industry to try to destroy his legal career. The book infuriated the leadership of The Florida Bar.

In July 2005, after petitioner's *60 Minutes* appearance, after the *Reader's Digest* piece, and after his success with Senator Clinton, *supra*, Take-Two, through its lawyers and lobbyists on Capitol Hill — the giant Philadelphia law firm of Blank Rome — filed with the Alabama trial court a Petition to Revoke Thompson's *Pro Hac Vice* Admission in the civil wrongful death case. Blank Rome asserted that Thompson's appearances on *60 Minutes* and other media improperly denied their corporate clients a fair trial. In fact, Alabama Bar Rules *authorize* and encourage such media appearances if confidential information is not disclosed and if one of the

purposes is to warn the public of a public safety hazard. Blank Rome also asserted to the Alabama court and then to The Florida Bar that Thompson had hidden "his colorful disciplinary history with The Florida Bar," even though all of it had been fully disclosed and in fact ballyhooed in petitioner's Tyndale House book and fully disclosed to the court.

The Alabama trial judge, James W. Moore of Fayette, subsequently admitted under oath that Thompson had in fact disclosed even *more* of his disciplinary history with The Florida Bar than he was even required to do by Alabama's *pro hac vice* admission rules. Thus, the sworn assertions by Take-Two's counsel that petitioner had acted unethically in appearing on *60 Minutes* and in applying for *pro hac vice* admission were utter fabrications and constituted perjury.

Alabama Fayette Circuit Court Judge Moore granted the motion to revoke Thompson's *pro hac vice* admission. Moore had also presided over Devin Moore's criminal murder trial, conviction, and sentencing to death, after denying him the opportunity to tell the jury of his video game addiction. Devin Moore was a black teen tried to an all-white jury in Alabama. Success in this civil wrongful death/products liability case will likely secure Devin Moore a new trial because, as indicated, the criminal jury was not allowed by Judge Moore to hear the unrebutted scientific and medical evidence of the deleterious effects of violent interactive entertainment on teens. Thus, Judge Moore, on the face of things, had a powerful incentive (protection of the murder conviction and death sentence) to remove

petitioner from the civil case that threatened maintaining the criminal trial result.

Moore, Blank Rome, and The Florida Bar then collaborated to file their joint Florida Bar complaint against Thompson that simply regurgitates the fraudulent Take-Two/Blank Rome lawyers' *pro hac vice* revocation motion made earlier in Alabama.

Even though the alleged ethical lapses of petitioner should have been addressed first in Alabama, with the findings then turned over to The Florida Bar for subsequent, reciprocal discipline, Thompson was nevertheless charged ***in Florida*** by The Florida Bar with violations of ***both*** Alabama State Bar Rules and also Florida Bar Rules. These states' two sets of Rules are not the same. Indeed, the Alabama Bar Rules favor Thompson dramatically.

Florida Bar Rule 3-4.6 mandates that Thompson could only be charged with violations of Alabama Bar Rules, not Florida Bar Rules, as it was supposedly the Alabama court harmed by Thompson's actions. Importantly, the Alabama State Bar, where Thompson should have been tried first, ***has dismissed all charges against Thompson.***

The Florida Bar, in its charging complaint approved by the Florida Supreme Court in January 2007, combined the "Alabama" charges with a two-and-one-half-year-old stale bar complaint brought by the lawyers for a Miami radio station broadcasting the *Howard Stern Show*. Thompson had secured an FCC Forfeiture Order against this station and had

participated, as a complainant, in a $3.5 million Consent Order between the FCC and Viacom-Infinity. One of the lawyers for this shock radio station, WIOD-AM, was the same lawyer, as related above, who had worked years earlier with the former Florida ACLU chairman to try to pathologize petitioner's faith-based efforts against the Miami shock radio stations fined by the FCC for indecent broadcasts.

The Florida disciplinary case was then, without explanation, transferred to the Orlando office of The Florida Bar, to be prosecuted by Orlando Bar prosecutor Ken Bryk, a radical gay rights activist who has been illegally operating the Central Florida Gay and Lesbian Lawyers Association out of the Florida Bar's Orlando office. Mr. Bryk has every right to be gay, but one of the assertions against Thompson by The Florida Bar and his accusers more than a decade earlier when both tried to pathologize his faith was that he was "homophobic" because he worked, in the words of the Adam Walsh Foundation to stop "the solicitation of teenaged boys for sex on the public airwaves" by the homosexual shock jock Thompson had heard.

To show further how the radical gay rights agenda has vitiated the "discipline" of petitioner, in The Florida Bar's disciplinary system the most important participant is the "designated reviewer." He is chosen from one of the 52 Bar Governors who together determine the policies of The Florida Bar. One Florida Bar Governor sits on each of the various grievance committees, and he/she serves as Governors' prosecutor who "certifies" every step of the way to the Governors that the proceedings against a lawyer are "fair."

Of all the 52 Bar Governors, the one chosen to serve as Thompson's designated first reviewer was Benedict Kuehne, a gay rights activist and lawyer. Kuehne has received awards from the ACLU for his efforts on behalf of their absolutist interpretation of the First Amendment and for his gay rights advocacy. Mr. Kuehne has every right to do what he does in this regard. What he did not have a right to do was serve as the certifier and guarantor of fairness as "designated reviewer" as to the discipline of a lawyer and citizen who had opposed for two decades the radical gay rights and First Amendment absolutist agendas of Mr. Kuehne.

Thompson posited a formal objection to Kuehne's serving in that crucial designated reviewer capacity and moved for his recusal, as he had a right under Florida Bar Rules to do. The motion was ignored. Mr. Kuehne was then indicted in 2007 by the United States Justice Department for allegedly laundering money for the Medellin cocaine cartel. Mr. Kuehne remains indicted.

With Thompson's bar trial scheduled for late 2007, Kuehne was replaced without explanation as petitioner's designated reviewer by Bar Governor Steve Chaykin.

The Florida Bar, in choosing Chaykin, went from the frying pan into the fire. Chaykin had years earlier led an unsuccessful fight for The Florida Bar to officially endorse "gay adoption," which is banned by statute in Florida. Chaykin railed in The Florida Bar's publications that those who oppose gay adoption are to be counted among "the enemies of The Florida Bar" and "are outside the core values of The Florida Bar."

Upon Chaykin's prosecutorial supervision of petitioner's case, petitioner asked for and secured mediation of this entire disciplinary dispute, as it was obvious where this was going. Petitioner proposed a 90-day suspension, which by definition, under Florida Rules, would have led to an automatic reinstatement. Steve Chaykin countered with a demand for a 90-day suspension must be coupled with a new round of publicly-disclosed mental health tests, to get to the bottom of petitioner's "homophobia" and opposition to pornography!

The Florida Bar Governors, by unanimous vote in February 2009, authorized The Florida Bar to file an amicus brief on behalf of gay adoption. The Attorney General of the State of Florida is defending the state statute barring gay adoption. This decision by The Florida Bar to inject itself into a divisive issue violates *Keller v. State Bar of California* and makes clear ***The Florida Bar's bias on this issue and underscores the political motivation of petitioner's prosecution by the Florida Bar.***

What The Florida Bar has done to petitioner using "discipline" to punish him for his religious and conservative views, was fully predicted by The American Bar Association in its 1992 McKay Commission Report analyzing state bars' disciplinary structures and methods, as will be seen more fully, *infra*.

After a nine-day trial of petitioner that commenced on November 26, 2007, The Florida Bar Referee issued a Referee's Report recommending

petitioner's permanent disbarment, and on September 25, 2008, the Florida Supreme Court permanently disbarred him.

To get to that result, the following events occurred:

i. The Florida Bar's referee, Dava J. Tunis, who had no experience and no training as a referee, denied petitioner all discovery leading up to the trial. She refused to issue subpoenas. She then denied petitioner the opportunity to introduce any evidence, in the form of documents and witnesses, at his bar trial. She denied him all hearings and rulings on his constitutional defenses. She ordered petitioner to remain silent at his own "sanctions hearing" after his trial, denying him his right to challenge the permanent disbarment sanction and the unsupported "costs" award of $42, 525.27.

ii. The Florida Bar stripped petitioner of the two attorneys representing him in these proceedings by threatening each with disciplinary action if they continued to represent petitioner. Stripped of his legal representation, the Florida Supreme Court on March 20, 2008, entered an Order (*Appendix-2*) informing petitioner that he could not represent himself in these proceedings before it. By virtue of that order the Florida Supreme Court then entered its permanent disbarment order of September 25, 2008 (*Appendix-3*) in which the court admits the disciplinary matter is "uncontested."

As will be more fully detailed, *infra*, The Florida Bar and Florida Supreme Court, then, have "disciplined" petitioner for reasons having absolutely nothing to do

with the legitimate regulatory purposes of any state bar. They have achieved disbarment, for these improper ends, by demonstrably improper means, by denying petitioner his right to represent himself, from which core right flows all of his other rights, including his First Amendment rights and his substantive due process rights under the Fifth and Fourteenth Amendments to the U.S. Constitution.

This despotic use of regulatory power for improper ends by improper means shocks the conscience, as it has deprived petitioner of his right to practice law for the rest of his life and of more than $42,000 ***in costs assessed against him by the Florida Bar.***

When and How Federal Questions Were Raised

In August 2004, the shock radio station brought a SLAPP Bar complaint against petitioner. Within ten days, petitioner posited, in writing, his federal constitutional defenses, which included his First Amendment right to petition the government (the Federal Communications Commission) regarding the criminal activity occurring at the radio station represented by the attorneys who had filed the complaint. Petitioner also posited at the same time the fact that he had no client in these regards and that The Florida Bar had no jurisdiction under its Rules to punish his petition or any other speech because he was not acting as a lawyer.

All of these federal defenses were then presented to the local grievance committee, and they were ignored.

Petitioner then filed petitions for writs of mandamus, writs of prohibition, and other requests for relief with the Florida Supreme Court, repeatedly, from 2004 until his disbarment in 2008.

Additionally, petitioner formally and in writing, posited his federal constitutional defenses with The Florida Bar Referee from the time she was appointed in January 2007 until his disbarment.

Petitioner also formally posited his federal constitutional defenses with the Florida Bar's Board of Governors, prior to his bar trial in November 2007, as he had a right under Florida Bar Rules and state law to do, but The Florida Bar Governors refused to hear and rule on them.

Reasons for Granting the Writ

There are primarily three reasons for granting the writ:

I. Petitioner Was Prosecuted, Tried, Convicted, and Disbarred by Stripping Him of All Defenses, Stripping Him of His Legal Counsel, and Then Stripping Him of His Right of Self-Representation

The Court is invited to read with care the September 25, 2008, Order permanently disbarring petitioner. It is, on its face, a devastating indictment of the alleged methods of petitioner and also of his alleged moral depravity and lack of character.

There's a bit of a problem, however, with the Order: Petitioner did none of what he is convicted of doing and he can prove it.

Look at just one "finding" in the September 25, 2008 permanent disbarment order (*Appendix-3*):

> "(8) respondent falsely and publicly accused various attorneys and their clients of engaging in a conspiracy/enterprise involving 'the criminal distribution of sexual materials to minors' and attempted to get prosecuting authorities to charge these attorneys and their clients for racketeering and extortion;"

The stubborn facts, which are verifiable independent of petitioner, are that the federal government, respectively through the FCC and the FTC, officially found that the clients of the two bar complainants, respectively, were formally found to have distributed sexual material to minors. Petitioner complained to his local US Attorney that The Florida Bar complaints brought against him violated 18 USC 241 because their intent was to chill petitioner's petition and speech rights. He had an absolute right to do so.

How then did The Florida Bar get from the bringing of demonstrably false SLAPP bar complaints in August 2004 to a permanent disbarment in September 2008?

The Florida Bar Referee, chosen in January 2007, before trial prohibited petitioner from taking discovery,

denied him the production of requested and subpoenaed documents, refused to issue subpoenas for witnesses, and then prohibited him from introducing any evidence or witnesses at trial. The Sixth Amendment guarantees "the right . . . to have compulsory process for obtaining witnesses in his favor."

Justice Douglas, dissenting in *Greene v. McElroy*, 360 U.S. 474 at 496 (1959), identified this very problem inflicted upon petitioner: "...in addition to the usual need for cross-examination to reveal mistakes of identity, faulty perception, or cloudy memories, there is a significant potential for abuse of the disciplinary process by '*persons motivated by malice, vindictiveness, intolerance, prejudice, or jealousy.*'" [emphasis added]

The Referee then refused hear and rule on any constitutional and other defenses, as indicated by her Referee's Report. This was all a subversion by the Referee, The Florida Bar, and Florida Supreme Court of the premise of *Middlesex County Ethics Committee v. Garden State Bar Ass'n*, 457 U.S. 423 (1982)—that state bar proceedings must afford an adequate opportunity therein to raise the federal constitutional claims.

Then, at petitioner's post trial "sanctions hearing," the Referee ordered petitioner not to speak, and thus he could not challenge the recommendation of permanent disbarment and the imposition of $42,525.27 in "costs," which were not only not proven but not even taxable as costs under Florida law.

Then, on March 10, 2008, prior to the issuance of the Referee's Final Report, the Florida Supreme Court

entered an Order (*Appendix-2*) "sanctioning" petitioner by ordering him not to file anything further with the court, including even a Petition for Review of the Referee's Report, once it was issued. The court ordered that counsel other than petitioner would have to file pleadings. This was done after The Florida Bar stripped petitioner of his two prior record counsel with threats of discipline against them if they continued to represent petitioner!

If one considers disbarment proceedings to be "of quasi-criminal nature," as does this Court in *In re Ruffalo*, 390 U.S. 544 (1968), then the Florida Supreme Court's denial of petitioner's right to represent himself in these disbarment proceedings violates this Court's ruling in *Faretta v. California*, 422 U.S. 806 (1975). Justice Stewart noted for the Court:

"In the long history of British criminal jurisprudence, there was only one tribunal that ever adopted a practice of forcing counsel upon an unwilling defendant in a criminal proceeding. The tribunal was the Star Chamber." That curious institution, which flourished in the late 16th and early 17th centuries, was of mixed executive and judicial character, and characteristically departed from common-law traditions. For those reasons, and because it specialized in trying "political" offenses, the Star Chamber has for centuries symbolized disregard of basic individual rights."

If one considers Bar disciplinary proceedings civil in nature, then the Florida Supreme Court violated our state's statutory law in depriving petitioner of his right to represent himself. Florida Statute 454.18:

> "any person, whether an attorney or not . . . may conduct his or her own cause in *any* court of this state." [emphasis added] Any means any.

The court "sanctioned" petitioner by depriving him of his right of self-representation in retaliation for petitioner's having previously sought writs of prohibition and mandamus from the court, along with other relief, in light of the misconduct of Bar officials and the prejudicial mistakes being made by the Referee. Most notably, the Florida Supreme Court "sanctioned" petitioner in this fashion on the same day, March 10, 2008, that the court denied his recusal motion on the grounds that six of the seven Justices had failed to execute State Loyalty Oaths mandated by state and federal laws and constitutions.

Finally, as to how a lawyer could be permanently disbarred for things he could not do, the September 25, 2008, disbarment Order says it all: "The court has treated this as an uncontested case." Indeed it was fully "uncontested," in the sense that petitioner was stripped of his counsel, his rights to discovery, his right to position constitutional defenses, and then of his most consequential core right—his right even to advocate on his own behalf. This was the high-tech lynching of an uppity Christian lawyer by every trick in The Florida Bar's book.

II. Petitioner Was Not Prosecuted for Ethics Violations But Rather for His Faith-Based Speech and Activism in Clear Contravention of *Keller v. State Bar of California*

This Court warned in *Keller v. State Bar of California*, 496 U.S. 1 (1990), that state bars are to stick with their core legitimate functions:

> "Both in purport and in practice, the bulk of State Bar activities serve the function . . .of elevating the educational and ethical standards of The Florida Bar to the end of improving the quality of the legal service available to the people of the State..." *Keller* at 8, quoting *Lathrop v. Donohue*, 367 U.S. 820 (1961).

The unanimous Court in *Keller* went on:

> "The State Bar may therefore constitutionally fund activities germane to those goals out of the mandatory dues of all members. It may not, however, in such manner fund activities of an ideological nature which fall outside of those areas of activity." *Keller* at 14.

The issue in *Keller* was whether the State Bar of California could, in the face of the First Amendment guaranteed rights of speech and association, spend its compulsory bar members' dues to promote clearly ideological, to promote political issues such as gun

control, a nuclear freeze, and other left-wing policies. This Court's answer was no, as such ideological forays are not what compulsory bars are to be about. They are to be professional organizations, not some agitator for political change.

In the same year that *Keller* was handed down, both The Florida Bar and Supreme Court were attempting to pathologize the faith-based activism of this petitioner. Fourteen years later, The Florida Bar and the Florida Supreme, despite the clear instruction of this Court in *Keller* that integrated state bars are not to pursue political, ideological agendas but rather serve the needs of the public to improve legal services and the administration of justice, decided once again to use "discipline" to hector petitioner, at the behest of lawyers for the porn industry, in retaliation for his nonconformist, faith-based views and speech. There is a pattern here that had led the *Palm Beach Post* recently to editorialize, in another instance, that "The Florida Bar uses discipline to pursue revenge politics."

What the Florida Supreme Court and Bar have done again to petitioner is even worse than what the California State Bar was caught doing in *Keller,* for that state bar was *merely* taking lawyers' dues monies and spending them on political causes.

Here the Florida Supreme Court and Bar have not just improperly promoted their left-wing political agenda through Florida Bar structures, such as through the unanimous decision this year to promote gay adoption in contravention of state law, but they have, in furtherance of that agenda and in pursuit of its

ideological vendetta against petitioner, has used lawyer discipline to punish him for his nonconforming views and for voicing his complaints about The Florida Bar's methods.

Much of what The Florida Bar has sought to punish it lacks jurisdiction even to address, as much of petitioner's speech was not in the practice of law and on behalf of no client. Florida Bar Rule 4-8.4(d), under which petitioner has been prosecuted, states this clearly:

> "(d) *engage in conduct in connection with the practice of law* that is prejudicial to the administration of justice,..."

The Florida Supreme Court held in *The Florida Bar v. Brake*, 767 So.2d 1163 (Fla. 2000) that this Rule means what it says and that disciplinary prosecutions, such as the one against petitioner for actions not undertaken in the practice of law, cannot be maintained.

Some on this Court saw this day when state bars would stifle speech even before *Keller*. In 1961, the dissenters in *Lathrop v. Donohue*, 367 U.S. 820 (1961), considered the politicization of the Wisconsin Bar. Justice Black, in dissent, wrote:

"At stake here is the interest of the individual lawyers of Wisconsin in having full freedom to think their own thoughts, speak their own minds, support their own causes and wholeheartedly fight whatever they are against, as well as the interest of the people of Wisconsin and, to a lesser extent, the people of the

entire country in maintaining the political independence of Wisconsin lawyers.

"[O]ne of the great purposes underlying the grant of those freedoms was to give independence to those who must discharge important public responsibilities. The legal profession, with responsibilities as great as those placed upon any group in our society, must have that independence. If it is denied them, they are likely to become nothing more than parrots of the views of whatever group wields governmental power at the moment. Wherever that has happened in the world, the lawyer, as properly so called and respected, has ceased to perform the highest duty of his calling and has lost the affection and even the respect of the people." *Lathrop v. Donohue*, 367 U.S. 820, 877.

Justice Douglas joined Justice Black in dissent, and in doing so, laid the groundwork for what became the unanimous ruling in *Keller*. Wrote Justice Douglas in *Lathrop*:

> Once we approve this measure, we sanction a device where men and women in almost any profession or calling can be at least partially regimented behind causes which they oppose. ... we practically give carte blanche to any legislature to put at least professional people into goose-stepping brigades.... Those brigades are not compatible with the First Amendment. 367 U.S. 884.

Finally, the year after this Court handed down

Keller, the American Bar Association issued its "McKay Commission Report on Evaluation of Disciplinary Enforcement."

For the McKay Commission, the *sine qua non* of reform of state bar discipline was the erection of a "Chinese wall" between the lawyer discipline process and the policy leadership of the bar. Found in Recommendation 5 of the ABA McKay Commission Report is this command:

"Elected bar officials, their appointees and employees should have no investigative, prosecutorial, or adjudicative functions in the disciplinary process. ...This recommendation presumes the existence of a full-time disciplinary counsel with statewide jurisdiction. Disciplinary counsel should be *insulated from political pressure from the public, members of the bar, and adjudicative officials of the disciplinary agency* including members of the Court in order to provide effective and fair enforcement of the rules of professional conduct." [emphasis added]

One of the seven members on the ABA's McKay Commission was Florida Bar official John T. Berry, who was one of seven signators to the McKay Report who warned that Bar Governors could have nothing to do with discipline. Why? Because Governors like Kuehne and Chaykin could and would run amok.

III. Once the Florida Supreme Court and Bar Decided Petitioner Must Be Permanently Disbarred for the Exercise of His First Amendment Speech and Religion Rights, All of His Constitutional Substantive Due Process Rights Were Violated to Achieve that Result

Substantive due process was owed petitioner even if The Florida Bar were seeking a disciplinary sanction for a *legitimate* reason not barred by *Keller*. In *Schware v. Board of Bar Examiners*, 353 U.S. 232, 239 (1957), this Court stated that, "[a] State cannot exclude a person from the practice of law or from any other occupation in a matter or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment." Moreover, in the "Privileges and Immunities" context, the practice of law has been recognized as a "fundamental right." *Supreme Court of News Hampshire v. Piper*, 470 U.S. 274, 282 (1985). This Court has stated: "Disbarment, designed to protect the public, is a punishment or penalty imposed on the lawyer. *Ex parte Garland*, 4 Wall. 333, 380, 18 L.Ed. 366 (1866); *Spevack v. Klein*, 385 U.S. 511, 515 (1967) . . . These are adversary proceedings of a quasi-criminal nature. *Cf. In re Gault*, 387 U.S. 1, 33 (1967)." *In re Ruffalo*, 390 U.S. 544, 550-551 (1968).

Against the federal Constitution's mandated due process guarantees, the procedures and practices employed by Florida to permanently disbar petitioner and thus deprive him of his "fundamental right" to practice law have so egregiously trespassed upon those rights that this Court must review those proceedings for

want of substantive due process in the following regards

A. Petitioner Was Denied a Fair and Impartial Judiciary

"The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases." *Marshall v. Jerrico*, 446 U.S. 238, 242 (1980). Likewise, this Court has recognized that: "Moreover, even if there is no showing of actual bias in the tribunal, this Court has held that due process is denied by circumstances that create the likelihood or the appearance of bias." *Peters v. Kiff*, 407 U.S. 493, 502 (1972).

The Florida Bar Referee chosen to preside over petitioner's nine-day bar trial and nearly an entire year of thwarted litigation leading up to that trial was Miami-Dade Circuit Court Judge Dava J. Tunis. *After* she was assigned this disciplinary matter, Tunis received campaign contributions from three Bar operatives keenly interested in an outcome adverse to petitioner, Florida Bar prosecutor Mr. Min, Mr. Kuehne, and Mr. Chaykin. Min's and Kuehne's were on the same day in the same amount. Chaykin's was given after the trial and before her Report was issued. What amounted to legal bribes denied petitioner a fair tribunal, which is a serious denial of substantive due process. This court presently has before it another case addressed whether receipt by state judges of campaign contributions can sully justice. In this instance it did or appeared to.

B. Petitioner Was Retributively Punished by the Florida Supreme Court and The Florida Bar for Trying to Raise His Constitutional Defenses in a Federal Civil Rights Action

The Florida Supreme Court and Bar violated the holding in *Donovan v. City of Dallas*, 377 U.S. 408, 413 (1964):

> "Petitioners being properly in the federal court had a right granted by Congress to have the court decide the issues they presented ... They have been punished...for prosecuting their federal-court case. ... That right was granted by Congress and cannot be taken away by the State."

Petitioner was doing everything he could to get some modicum of due process within the state disciplinary process. He was thwarted at every turn. He then tried to settle this regulatory nightmare. He was rebuffed with a new demand to return to the gulag's psychiatric methods visited upon him once before by the Florida Supreme Court and The Florida Bar.

He then turned to the federal courts for relief, only to have The Florida Bar's counsel tell the federal court that petitioner had an "adequate state remedy" and would have his constitutional defenses heard by the Board of Governors before trial. Abstention was

granted, and then the Governors refused to entertain petitioner's constitutional defenses!

Then, importantly, with no more alleged unethical conduct ever asserted against petitioner, The Florida Bar went from a 90-day suspension sanction to permanent disbarment. Thus, the Florida Supreme Court gave The Florida Bar the disbarment sanction it wanted, never having heard and never having ruled upon petitioner's constitutional and other defenses but annoyed that he tried to raise them in federal court and elsewhere.

C. Petitioner Was Deprived of Substantive Due Process by The Florida Bar's Extraterritorial Prosecution in Violation of Its Own Florida Bar Rule 3-4.6

Petitioner was admitted *pro hac vice* in Alabama. He was alleged to have violated Alabama Bar Rules while admitted there. The Alabama Judge then revoked his *pro hac vice* admission on the urging of the lawyers for the video game developer Take-Two, and the Alabama Judge forwarded the revocation in the form of a bar complaint to the Alabama State Bar. If the Alabama State Bar then found petitioner guilty of anything, it would have forwarded the adverse finding to The Florida Bar for reciprocal action.

What has the Alabama State Bar done? ***It has dismissed its disciplinary proceedings against petitioner***. This should end the matter as to whether or

not petitioner violated Alabama State Bar Rules.

Consider Florida Bar Rule 3-4.6, as to which of the two states' bar rules petitioner should have been prosecuted under:

> "**(b) Choice of Law**. In any exercise of the disciplinary authority of this [Florida's] jurisdiction, the rules of professional conduct to be applied ***shall*** be as follows:
>
> (1) for conduct in connection with a matter pending before a tribunal, ***the rules of the jurisdiction in which the tribunal sits***, unless the rules of the tribunal provide otherwise; and
>
> (2) for any other conduct, the rules of the jurisdiction in which the attorney's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, ***the rules of that jurisdiction shall be applied to the conduct***." [emphases added]

In other words, as the above Florida Bar Rule indicates, since petitioner's conduct allegedly impacted the Alabama court, it was *that* state's bar rules which governed that conduct.

But what did The Florida Bar do, in violation of its own Bar Rule 3-4.6? As the formal complaint indicates, petitioner was, remarkably, charged with violations of *both* Alabama State Bar Rules and Florida

Bar Rules. His being charged with the latter was nonsensical, in that it was in his role as *pro hac vice* attorney in Alabama that he allegedly impacted adversely the administration of justice before that state's tribunal, presided over by Judge Moore!

Alabama State Bar Rules are far more favorable to petitioner, which is *precisely* why The Florida Bar did not want to proceed under them. For example, as pointed out, the Alabama State Bar Rule pertaining to pre-trial publicity clearly authorized petitioner to appear on CBS' *60 Minutes* because of the information he was imparting to the public regarding a public safety matter.

Take-Two's Blank Rome lawyers based their Motion to Revoke *Pro Hac Vice* Admission substantially upon petitioner's *60 Minutes* appearance as an attempt by petitioner to rig the civil case. Nearly four years after the *60 Minutes* story, the civil case has not been set for trial. Devin Moore was convicted and sits on Death Row. Alabama was not "denied a fair trial" by discussion of video games on *60 Minutes*. No gag order against such media appearances was ever entered by Judge Moore because, before the Blank Rome revocation stunt, as Judge Moore said, in open court and on the record, "I can't enter a gag order in a civil case. Have at it."

Despite the fact that petitioner was formally charged with violations of Alabama State Bar and Florida Bar Rules, the Referee found guilt *only* as to some Florida Bar Rules and ***no findings of guilt whatsoever*** as to the Alabama Bar Rules. This serves

as an acquittal of alleged violations of the only bar rules that could apply to petitioner's conduct in Alabama, and the Alabama State Bar dismissed those.

The American Bar Association, in its Commission on Multi-jurisdictional Practice Report to the House of Delegates, Report 201 C, Rule 8.5, Disciplinary Authority; Choice of Law (the ABA Model Rule on which Florida's Rule 3-4.6 is based) strongly recommends that no state bar should apply two different states' bar rules to the same conduct by an attorney. Further, the ABA recommends that the bar rules of the tribunal whom the conduct impacted must be the only bar rules that are applied. *See http://www.abanet.org/cpr/mjp/201c.pdf.*

As indicated by the Alabama State Bar's dismissal of the charges against petitioner, The Florida Bar had reason to worry that petitioner would not be convicted in Alabama, and so it violated its own substantive due process "Choice of Law" requirements of Florida Bar Rule 3-4.6 and proceeded against petitioner extraterritorially.

This was akin to petitioner's being arrested in Alabama for speeding, but being tried under Florida's traffic laws by a Florida court. By proceeding extraterritorially against him, The Florida Bar grievously denied petitioner substantive due process, as it utterly lacked jurisdiction to proceed against him for alleged violations of Florida Bar Rules when only Alabama Rules applied, and which the Alabama State Bar should have prosecuted, but declined to do so.

D. Petitioner Was Deprived of Substantive Due Process As No Evidence Proving His Lawyer Misconduct Was Introduced at Trial

When The Florida Bar's latest installment of hectoring petitioner began in August 2004, he repeatedly formally asked for a charging document that not only listed Bar Rules allegedly violated but also a presentation of at least bare *facts* that would constitute violations of any of Rules. Disbarment proceedings are quasi-criminal proceedings, and thus the Sixth Amendment requirement that a defendant "be informed of the nature and cause of the accusation" applies to a disbarment proceeding.

The Florida Bar *never* came forward, even at trial, with any proof that petitioner had done what he was charged with doing. The Florida Bar cited certain Florida Bar Rules, recounted certain things that petitioner had said and done that angered opposing counsel or others, but it never came forward with a shred of evidence that petitioner violated a single Bar Rule or any law.

For example, this Court in *Times v. Sullivan*, 376 U.S. 254 (1964), set forth the standard for libel found in Florida Bar Rules, namely that a lawyer who utters a falsehood, either knowing it to be false or in reckless disregard of whether it is true or not, has acted unethically. The Florida Bar at trial never even tried to prove whether petitioner had a factual basis or reasonable belief for what he was saying about certain

individuals and corporate practices. The Florida Bar had to prove up petitioner's recklessness under *Times v. Sullivan*, but never even tried. Yet the referee found petitioner to have been untruthful, with The Florida Bar having submitted no evidence that he had been. Petitioner has thus been denied substantive due process in this regard as well.

E. Petitioner's Permanent Disbarment Shocks the Conscience by Its Disproportionality

The American Bar Association as well as The Florida Bar have adopted "Standards for Imposing Lawyer Sanctions," which mirror one another.

None of petitioner's conduct, even if it had been proven, satisfies in either set of Standards, Florida's or the ABA's, the threshold requirements for permanent disbarment.

"Harm" done by a lawyer—harm done to someone or something—is the key to the level of disciplinary sanctions that a state bar may impose for any ethical misconduct. The worse the harm, the worse the punishment is to be, and that is as should be. Yet, in this instance, no client complained. No criminal acts were even alleged.

Petitioner repeatedly asked The Florida Bar, in both letters and in formal discovery in the more than three years prior to his bar trial, "What harm to anyone, either a client or an opponent, or to the judicial

system itself, has petitioner's conduct caused?"

The Florida Bar answered that question thusly: "To answer what harm was done calls for a legal conclusion." The Florida Bar could not come up with any "harm" because there was none.

Petitioner spoke and wrote harshly of the illegal activities of the shock radio and video game companies. He defended himself vigorously in response to their false attacks and in response to assertions that he had not been truthful. The findings of the federal government serve to corroborate everything petitioner said about his opponents, and they vindicate the legitimacy as well as the factual basis for his public-spirited efforts.

Further, The Florida Bar's own real assessment of the "harm" done by petitioner does not warrant disbarment. At the aforementioned mediation prior to 2007 trial, The Florida Bar stated it was willing to accept a 90-day suspension, but coupled with embarrassing and publicly-disclosed mental health examinations by Bar-selected providers. When petitioner simply sought federal relief through a civil rights action, from these efforts, once again, to improperly and very publicly stigmatize him with the "this lawyer is too crazy to practice law" stunt, The Bar's designated review Chaykin escalated the sanction to disbarment in retribution.

The disbarment punishment then, which the Florida Supreme Court turned into an "uncontested" matter, is mere retribution for petitioner's efforts to make the disciplinary proceedings fair.

What "harm" was done by petitioner? He annoyed opposing counsel and their dangerous clients because he told the truth to powerful people, some of whom were running The Florida Bar. This is hardly a basis for permanent disbarment.

By way of corroboration of this assessment, when Bar President Hank Coxe was asked in a face-to-face meeting in 2007 whom or what petitioner had harmed in anything he had done, Mr. Coxe told petitioner and his lawyer, in front of other Bar officers: "We want you punished because of the vitriol in your words." So The Florida Bar didn't like the petitioner's tone. Tone cannot be the basis for permanent disbarment.

Conclusion

The Preamble to Florida's Rules of Professional Conduct state:

"A lawyer's responsibilities as a representative of clients, an officer of the legal system, and a public citizen are usually harmonious. ...In the practice of law conflicting responsibilities are often encountered. Difficult ethical problems may arise from a conflict between a lawyer's responsibility to a client and the lawyer's own sense of personal honor, including obligations to society and the legal profession."

"Furthermore, the purpose of the rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary

authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the rule."

Petitioner discharged faithfully and zealously what God gave him the light to see were his duties as a citizen to protect others from predators. He violated no Florida Bar Rules in doing so. A fair adjudication would have proven that. Petitioner was not afforded that fair adjudication, as set forth only partially above.

Petitioner prays that this Court will grant the petition for writ of certiorari to the Florida Supreme Court. If it does not, then he prays, in another sense, for the future of this state, for the practice of law, and for the independence of the legal profession everywhere.

Respectfully submitted,

John B. Thompson

Appendix

Opinions Below

SUPREME COURT OF FLORIDA
FRIDAY, March 20, 2008
CASE NO.: SC07-80/SC07-354

THE FLORIDA BAR,

Complainant(s)

vs.

JOHN BRUCE THOMPSON,

Respondent(s).
_____/

We conclude that sanctions are merited on this record. Accordingly, in order to preserve the right of access for all litigants and promote the interests of justice, the Clerk of this Court is hereby instructed to reject for filing any future pleadings, petitions, motions, documents, or other filings submitted by John Bruce Thompson, unless signed by a member in good standing of The Florida Bar other than himself. Under the sanction herein imposed, Thompson is not being denied access to the courts; that access is simply being limited due to his abusiveness. Thompson may petition the Court, but may do so only through the assistance of counsel, whenever such counsel determines that the filing has merit and can be filed in good faith. All other pending petitions, motions, and requests for relief filed by Thompson are hereby denied without prejudice.

LEWIS, C.J., and WELLS, ANSTEAD, PARIENTE, QUINCE, CANTERO, and BELL, JJ., concur.

SUPREME COURT OF FLORIDA
FRIDAY, September 25, 2008
CASE NO.: SC07-80/SC07-354

THE FLORIDA BAR,

Complainant(s),

vs.

JOHN BRUCE THOMPSON,

Respondent(s).
_____/

The referee has filed a corrected report recommending that respondent, John Bruce Thompson, be permanently disbarred without leave to apply for readmission to The Florida Bar. Respondent submitted a petition for review of the referee's report. The Clerk did not accept the petition for review for filing. This action was in accord with this Court's opinion dated March 20, 2008, which sanctioned respondent for abusive filings and barred him from filing on his own behalf. The sanction opinion provided, in pertinent part: "the Clerk of this Court is hereby instructed to reject for filing any future pleadings, petitions, motions, documents, or other filings submitted by John Bruce Thompson, unless signed by a member in good standing of The Florida Bar other than himself." *Fla. Bar v. Thompson,* 979 So. 2d 917,921 (Fla. 2008). The opinion also noted: "in sanctioning respondent, we are requiring him to retain qualified counsel so that his arguments might be properly presented through the appropriate

procedures in the appropriate forum. We do not limit such counsel's ability to challenge the referee's findings and recommendations on review." Id. at 919.

Ignoring this bar on self-submitted filings, respondent has submitted numerous filings in violation of the sanction opinion, including the petition for review of the referee's report. The Clerk properly rejected each of these submissions. Thus, there being no authorized petition for review filed, and the time period to seek review has passed, the Court has treated this as an uncontested case. The Court has reviewed the 169-page corrected report of the referee filed on July 16,2008, for sufficiency and has determined that permanent disbarment is merited on this record. (This report is posted on the Court's public website). The Report details the extensive misconduct of respondent and his complete lack of remorse. In her report, the referee states:

> Over a very extended period of time involving a number of totally unrelated cases and individuals, respondent has demonstrated a pattern of conduct to strike out harshly, extensively, repeatedly and willfully to simply try to bring as much difficulty, distraction and anguish to those he considers in opposition to his causes. He does not proceed within the guidelines of appropriate professional behavior, but rather uses other means available to intimidate, harass, or bring public disrepute to those whom he perceives oppose him.

Among the extensive findings of fact presented in the report, the Court takes particular note of the following which occurred during the three-year period at issue in five counts in these cases: (1) respondent made false statements of material fact to courts and repeatedly violated a court order; (2) respondent communicated the subject of representation directly with clients of opposing counsel; (3) respondent engaged in prohibited ex parte communications; (4) respondent publicized and sent hundreds of pages of vitriolic and disparaging missives, letters, faxes, and press releases, to the affected individuals; (5) respondent targeted an individual who was not involved with respondent in any way, merely due to "the position [the individual] holds in state and national politics;" (6) respondent falsely, recklessly, and publicly accused a judge as being amenable to the "fixing" of cases; (7) respondent sent courts inappropriate and offensive sexual materials; (8) respondent falsely and publicly accused various attorneys and their clients of engaging in a conspiracy/enterprise involving "the criminal distribution of sexual materials to minors" and attempted to get prosecuting authorities to charge these attorneys and their clients for racketeering and extortion; (9) respondent harassed the former client of an attorney in an effort to get the client to use its influence to persuade the attorney to withdraw a defamation suit filed by the attorney against respondent; and (10) respondent retaliated against attorneys who filed Bar complaints against him for his unethical conduct by asserting to their clients, government officials, politicians, the media, female lawyers in their law firm, employees, personal friends, acquaintances, and their wives, that the attorneys were

criminal pornographers who objectify women. The Court concludes that the facts, as even more extensively detailed in the referee's report, support the referee's numerous recommendations as to guilt.

The referee cited various cases indicating that disbarment is an appropriate sanction and recommended permanent disbarment because "respondent has repeatedly stated in these proceedings that he will not change his conduct" and she "finds no evidence whatsoever to indicate that respondent is amenable to rehabilitation, or even remotely appreciates the basis upon which a need or purpose for such rehabilitation is warranted." Indeed, as noted by the referee:

> Respondent has repeatedly failed to follow the appropriate rules and orders throughout these disciplinary proceedings as evidenced by the granting of the Bar's Motion for Sanctions and the Supreme Court of Florida's orders of February 19,2008 and March 20,2008, wherein the Court found that respondent "abused the legal system by submitting numerous, frivolous and inappropriate filings," despite being warned not to do so.

In fact, the referee reported that respondent walked out of her courtroom at the final hearing in this matter because she would not allow him to "to turn the [d]isciplinary proceeding into a press conference." Based on the record before it, the Court agrees that respondent is not amenable to rehabilitation. Further, the Court

approves the referee's recommendation that permanent disbarment is the appropriate sanction.

The Court approves the corrected referee's report and John Bruce Thompson is permanently disbarred, effective thirty days from the date of this order so that respondent can close out his practice and protect the interests of existing clients. If respondent notifies the Court in writing that he is no longer practicing and does not need the thirty days to protect existing clients, this Court will enter an order making the permanent disbarment effective immediately. Respondent shall accept no new business from the date this order is filed.

Judgment is entered for The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, for recovery of costs from John Bruce Thompson in the amount of $43,675.35, for which sum let execution issue.

Not final until time expires to file motion for rehearing, and if filed, determined. The filing of a motion for rehearing shall not alter the effective date of this permanent disbarment. Consistent with this Court's sanction order, no motion for rehearing will be considered unless signed by a member in good standing of The Florida Bar other than respondent.

QUINCE, C.J., and WELLS, ANSTEAD, PARIENTE, LEWIS, BELL, and CANADY, JJ., concur.

SUPREME COURT OF FLORIDA
FRIDAY, January 30, 2009
CASE NO.: SC07-80/SC07-354

THE FLORIDA BAR,

Complainant(s),

vs.

JOHN BRUCE THOMPSON,

Respondent(s).
_____/

The Florida Bar's "Motion to File Final Cost Affidavit" filed in the above styled cause on October 29,2008, is granted and the judgment of costs in this Court's order dated September 25,2008, is hereby amended as set forth below. The remainder of the order dated September 25,2008, shall remain in effect and unmodified.

Judgment is entered for The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, for recovery of costs from John Bruce Thompson in the amount of $42,525.27, for which sun let execution issue.

QUINCE, C.J., and WELLS, ANSTEAD, PARIENTE, LEWIS, BELL, and CANADY, JJ., concur.